

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Prohibition & Excise Department – Suits – APAT–O.A.No.3966/05 filed by Sri P.N.V.Durga Srinivas, S/o. Late Sri P.Bapuji for appointment on Compassionate grounds – Orders – Issued.

REVENUE (EXCISE.I) DEPARTMENT

G.O.Rt.No. 1998

Dated:24-10-2008

Read the following:

1. From the CPE, A.P., Hyd., Cr.No.153/2005/H4, dated:15.02.2005.
2. Govt. Memo No.7439/Ex.I(2)/2005-4, dt:17.6.2005
3. Orders of the APAT dated:3.8.2007 in OA No.3966/2005.
4. Notice from APAT in CA No.509/2008 in O.A.No.3966/05 Dated:6.8.2008.
5. Orders of High Court of A.P., in WP.19164/2008, dated:04.09.2008.
6. From the CPE, Cr.No.12450/2005/CPE/H4, dated:13.10.2008.

ORDER:

In the reference 1st read above, the Commissioner of Prohibition & Excise has stated that Sri P.Bapuji, Junior Assistant while working in the office of Prohibition & Excise Superintendent, Machilipatnam, Krishna District expired on 4.6.2004. Smt P. Jaya Laxmi W/o. Late P. Bapuji has three daughters and only one son. All the three daughters are married and are living separately. The only son Sri P.N.V. Durga Srinivas is an unemployee married on 29.5.2004. The wife of the deceased Smt. P. Jaya Laxmi was Government employee working as Deputy Mandal Revenue Officer in M.R.O. Office, Challapalli as on the date of death of the deceased. Due to ill health, she has applied for voluntary retirement and retired from service on 31.10.04 i.e. after the death of her husband. The son of the deceased Sri P.N.V. Durga Srinivas has passed B.Sc. Smt. P.Jaya Laxmi requested to provide a job to her son as Junior Assistant on compassionate grounds. The Commissioner of Prohibition & Excise has therefore, requested the Government to clarify whether Sri P.N.V. Durga Srinivas may be considered or not for appointment as Junior Assistant on compassionate grounds.

2. In the reference 2nd read above, Government have rejected the request for appointment of Sri P.N.V. Durga Srinivas in terms of Sub-para (1) of G.O.Ms.No.687, General Administration (Ser.A) Department, dated: 03.10.1977. Aggrieved by this, Sri P.N.V.Durga Srinivas has filed O.A.No.3966/2005 praying to set aside the Govt.Memo No.7439/Ex.I(2)/2005-4, dated:17.6.2005 with a direction to the respondents to consider the case of the applicant for appointment on compassionate grounds.

3. The Andhra Pradesh Administrative Tribunal have passed the following order in O.A. No.3966/2005 dated:3.8.2007:-

"Therefore, the contention of the respondents that by the date of death of the father of the applicant, his mother was in service and so the applicant is not entitled for compassionate appointment does not stand for judicial review. So, the averment of the

(P.T.O.)

applicant that his mother retired from service due to ill-health, within 5 months after the death of his father and his family is in penury, cannot be denied. It is a fact that pensions cannot be taken into account to decide the financial status of the family for the purpose of compassionate appointment.

Thus, viewed from any angle, the interpretation of G.O.Ms.No.687, G.A.D., dt.03-10-1977, in the impugned order is bad under law and cannot be accepted. Though, the applicant's mother was in employment by the date of death of his father, as she retired from service within six months, the applicant is entitled for compassionate appointment.

Therefore, the application is allowed and the impugned order dt.17-06-2005, is set-aside and directed to consider the case of the applicant for compassionate appointment as per his qualification, in the light of the scheme of compassionate appointment introduced by the state of Andhra Pradesh. The respondents shall pass the necessary orders within 8 weeks from the date of receipt of this order."

4. Government have filed an appeal against the orders of Andhra Pradesh Administrative Tribunal in OA No.3966/2005, dated:3.8.2007 before the Hon'ble High Court of Andhra Pradesh. The Hon'ble High Court of Andhra Pradesh dismissed the W.P.19164/2008 filed by the Government at the admission stage with the following observations:-

"G.O.687, General Administration (Services.A) Department, dated 03-10-1977 stipulates that the application for compassionate appointment shall be made within one year from the date of death of the Government servant. In the instant case, the respondent's father died on 04.06.2004, and the respondent made an application seeking compassionate appointment within one year after his father's death. It is not disputed that the mother of the respondent has taken voluntary retirement from service after the death of her husband. It is to be noted that the respondent was dependent on his father and his mother is ill and is out of service. The object of the compassionate appointment is to provide immediate succour to the member of bereaved family and as such, purposeful interpretation has to be given to the Compassionate Appointment Scheme. Having regard to the facts and circumstances, we are not inclined to interfere with the impugned order in exercise of writ jurisdiction under Article 226 of the Constitution of India.

The writ petition fails and it is accordingly dismissed at the stage of admission."

5. The Government have examined the matter keeping in view the orders of the Andhra Pradesh Administrative Tribunal in O.A.No.3966/2005 dated:3.8.2007 and dismissal of the W.P.No.19164/2008 filed by the Government by the Hon'ble High Court of Andhra Pradesh and hereby order that Sri P.N.V.Durga Srinivas, S/o. Late Sri P.Bapuji, Junior Assistant, O/o. Prohibition & Excise Superintendent, Machilipatnam, Krishna District be appointed as per his qualification and eligibility under compassionate appointment scheme.

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7. The Commissioner of Prohibition & Excise shall take further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G.SUDHIR
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Commissioner of Prohibition & Excise, A.P., Hyderabad.

Copy to:

The Prohibition & Excise Superintendent, Machilipatnam

The District Collector, Krishna District at Machilipatnam

The General Administration (Ser.G) Department

The Law (H) Department

The Accountant General, A.P., Hyderabad.

The Director of Treasuries & Accounts, A.P., Hyderabad.

SF/Sc

// FORWARDED :: BY ORDER //

SECTION OFFICER